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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,583	02/23/2004	Bret Rasmussen	ACAS-1-1037	4358
25315 7590 04/14/2008 BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104				
EXAMINER STORMER, RUSSELL D				
ART UNIT		PAPER NUMBER		
3617				
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04/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,583

Applicant(s)

RASMUSSEN ET AL.

Examiner

Russell D. Stormer

Art Unit

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 16 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 7, 13-15, 17-19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

The amendments to the claims filed January 23, 2008 have overcome all of the objections to the drawings and specification and the rejections under 35 U.S.C. 112 set forth in the previous office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12, 16, and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cartwright in view of Morin et al (both previously cited).

Cartwright discloses an endless drive track comprising a base 22 including an outer side, and a plurality of elastomeric traction lugs 20 formed with the base in a unitary construction. Such unitary construction is not shown in any of the drawing figures, but as noted in lines 40-50 of column 5, the lugs 20 could be formed integrally with the base. Each of the lugs has a lower portion 36 extending outward from the base and having front and rear surfaces which extend perpendicular to the base, and therefore extend outward from the base by a first angle of inclination of zero degrees. The lugs further have an upper portion 34a, 34b which extends from the lower portion by a second angle of inclination.

As shown, the lugs 20 appear to have a height which is slightly greater than the longitudinal thickness, but dimensions for the lugs are not disclosed in Cartwright.

Morin et al teaches an endless track assembly having traction lugs which are integrally formed with a base. The lugs are shown to have a longitudinal thickness which, at any point, is less than the height of the lugs. See figures 5A, 5B, 6, and 7. From this teaching it would have been obvious to form the traction lugs of Cartwright to have a longitudinal thickness which was at any point less than the height of the lugs. In other words, the height of the lugs could be extended. Such a modification would allow the lugs to provide greater lift in deep snow as is well-known in the art. Moreover, the modification would yield predictable results.

With respect to claims 24 and 25, the lugs of Cartwright are not shown to be staggered or undulating as they extend across the track. However, each of these limitations is taught by Morin et al as shown in figures 3 and 7, and are shown as being

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old and well-known in figures 11 and 12 of Morin et al. To modify the traction lugs of Cartwright to be staggered longitudinally on the track, and/or to extend across the track in an undulating manner would have been obvious to those of ordinary skill in the art based on the conditions the track is intended to be used in, such as in deep snow, or packed snow. Moreover, the modification would yield predictable results.

Allowable Subject Matter

Claims 7, 13-15, and 17-19 are allowable over the prior art of record.

Response to Arguments

Applicant's arguments with respect to claims 12 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Applicants' argument that the traction lug of Cartwright includes an anchor plate 28 is noted. This feature does include an angle of inclination which differs from the angle of main body of the lug 20 and it appears that the plate 28 would meet the limitations of claims 12 and 21, as Applicants apparently thought was the intent of the previous office action. However, the previous office action described Cartwright as having a lower portion which had an angle of inclination of zero degrees as noted below, and it was believed that the it was clear that the portion 36 was considered to be the lower portion.

As shown in figure 3, the traction lug comprises a lower portion which extends away from the base of the track at an incline of zero degrees, and a second distal

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portion which extends away from the track at a second angle of inclination which is greater than the first angle.

Nevertheless, this feature is shown in Cartwright and pointed out in more detail in the rejection of claims 12 and 21 above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Russell D. Stormer/
Primary Examiner, Art Unit 3617